

RACHEL APPLEGATE, PH.D.
July 28, 2023

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION
CASE NO. 6:21-cv-00727-ADA

THE TRUSTEES OF PURDUE UNIVERSITY,)
)
 Plaintiff,)
)
 - vs -)
)
STMICROELECTRONICS INTERNATIONAL)
N.V., ET AL.,)
)
 Defendants.)

The videotaped deposition upon oral examination of RACHEL APPLEGATE, PH.D., a witness produced and sworn before me, Dianne Lockhart, RMR, CRR, a Notary Public in and for the County of Marion, State of Indiana, taken on behalf of the Defendants STMicroelectronics, Inc. and STMicroelectronics International N.V. at the Conrad Hotel Indianapolis, 50 West Washington Street, Indianapolis, Marion County, Indiana, on the 28th day of July, 2023, commencing at 9:32 a.m. pursuant to the Federal Rules of Civil Procedure.

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1 Q	Okay. Let's mark, then, as Exhibit 6 -- and you thought by clicking on SpringerLink would give you information about whether the book was relevant today?	1 A	I would suppose so. I think every publisher has offices in New York.
2		2 Q	But you did not see -- in forming -- in providing your opinion in this case, you had not seen this document; correct?
3		3 A	No, because, again -- and -- I see publisher's dates that are not accurate. I have experienced before publisher's dates that are not accurate to the actual time a physical thing was produced.
4		4 Q	Yeah, I take it you've also seen where it is accurate; right?
5	MR. OFFOR: Object to form.	5 A	Yes, but it's -- it is an unreliable, it has too much wiggle room for me.
6 Q	Did I get that right?	6 Q	So is it your view that you -- you wouldn't trust a publisher saying when a publisher published a book?
7 A	No. What I said was I did not click on it because I was not being asked whether it was available for sale today.	7 A	I am probably influenced by the fact that I was emailing an editor in April of 2023 about the final edits for an article I wrote that they published and said was published in 2022, and it wasn't.
8		8 Q	So you have reason to believe that Springer on its website is not telling the truth when it says it published in October 8, 2003?
9		9 A	I think it's aspirational and I think nobody
10 Q	Okay. Let's mark as Exhibit 6 -- here you go, give you the right one -- a document		
11	SpringerLink, ST-Purdue_00121651 through 59.		
12			
13 A	Uh-huh, thank you.		
14 Q	Have you seen Exhibit 6 before?		
15 A	I sat in on a deposition yesterday, and I saw it then.		
16			
17 Q	And if you go to page 8 of 9.		
18 A	Yes.		
19 Q	Well, first of all, do you recognize this "Silicon Carbide, Recent Major Advances" as the book in question? This is what this is talking about?		
20			
21			
22			
23	MR. OFFOR: Object to form.		
24 A	It is the Choyke book.		
25 Q	Yes. And do you see on page 8 of 9 the Choyke		
	Page 39		Page 41
1	book was published on October 8, 2003?	1	cares anymore from their end.
2	MR. OFFOR: Object to form.	2	MR. OFFOR: I think whenever you find a good
3 A	I see that the publisher says it was published.	3	breaking point.
4 Q	So you do see that it says it was published on October 8, 2003?	4	MR. BETTINGER: Yeah, now is good. Yeah.
5		5	THE VIDEOGRAPHER: The time is 10:21 a.m. --
6	MR. OFFOR: Object to form.	6	MR. BETTINGER: Just to let you know, I --
7 A	That the publisher on this website has listed that date. There's -- it says "Hardcover, ISBN" --	7	I'll try to get this done before lunch. We'll
8		8	see. It might be a late lunch, but I'll try to
9		9	get it done, okay, so from a timing standpoint.
10 Q	Yeah.	10	THE VIDEOGRAPHER: The time is 10:22 a.m.
11 A	-- "Published 08," that's -- that's the -- what the publisher has put on there.	11	and we are going off record.
12		12	(At this time a recess was taken.)
13 Q	Right. Do you know how long Springer has been in the business of publishing books?	13	THE VIDEOGRAPHER: The time is 10:41 a.m.
14		14	and we are back on record.
15 A	A long time. I don't know exactly.	15	BY MR. BETTINGER:
16 Q	Are they well respected as a publisher?	16	All right. Thank you, Doctor. You had an
17 A	Medium.	17	opportunity in reviewing Dr. Hall-Ellis's report
18 Q	Why -- why medium?	18	to see her Exhibit 1, which was the -- the cover
19 A	I'm -- I'm used to scientific hierarchy, and so they're sort of a midlevel scientific publisher.	19	page, the verso page and the article; do you
20		20	recall that?
21	I mean -- anyway, they are.	21 A	I believe so.
22 Q	Do you know if they're based in Germany?	22 Q	Yeah. And did you -- well, let me do this. Let
23 A	I don't have a reason to think they're not. I think they are, but I --	23	me just mark as Exhibit 7 a document bearing
24		24	Bates number ST-Purdue_00118795 as Exhibit 7.
25 Q	Do you know that they have offices in New York?	25	I'll represent to you that's the page from

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<p style="text-align: right;">Page 42</p> <p>1 her report, if you want to see it, but do you 2 recognize this as the verso page of the book that 3 we're talking about, the Choyke book?</p> <p>4 MR. OFFOR: Object to form.</p> <p>5 A I -- I recognize it as part of her report.</p> <p>6 Q Okay. And do you see the stamp on this?</p> <p>7 A Yeah, fuzzy.</p> <p>8 Q Library of Congress, November 10, 2003?</p> <p>9 A Correct.</p> <p>10 Q Okay. Do you understand that this was a document 11 that was obtained from the Library of Congress?</p> <p>12 MR. OFFOR: Object to form.</p> <p>13 A I don't know that.</p> <p>14 Q Did you ever ask where -- where it was obtained 15 from?</p> <p>16 MR. OFFOR: Object to form.</p> <p>17 A I don't see that in -- in my report where I went 18 back and forth on asking that.</p> <p>19 Q Yeah. Would it surprise you to learn that it was 20 obtained from the Library of Congress?</p> <p>21 MR. OFFOR: Object to form.</p> <p>22 Q Exhibit 7.</p> <p>23 A I don't know. I mean, I wouldn't either be 24 surprised one way or the other.</p> <p>25 Q Okay. Well, I'll take one of the ways, I guess.</p>	<p style="text-align: right;">Page 44</p> <p>1 So I -- I'm sorry, could you restate the 2 question?</p> <p>3 MR. BETTINGER: I lost it at this point. 4 I'm sorry, would you mind reading it back, ma'am. 5 (The pending question was read back by the 6 reporter.)</p> <p>7 A My analysis on page 9 and 10 -- 8, 9 and 10 of my 8 report is an analysis of when it was publicly 9 available, not when it was published.</p> <p>10 Q Yes. And I'm asking you does this have any 11 impact on your analysis as to when it was 12 published?</p> <p>13 A It -- it has an impact.</p> <p>14 Q And what is that, ma'am?</p> <p>15 A That -- that there was something in existence 16 that they stamped.</p> <p>17 Q And do you recognize this as the verso page from 18 the book, the Choyke book?</p> <p>19 A I recognize that she represents that and, excuse 20 me, it was in her report.</p> <p>21 Q Have you looked at the verso page from the actual 22 book?</p> <p>23 A No.</p> <p>24 Q You haven't? So you don't know?</p> <p>25 A I do not have a copy of the actual book.</p>
<p style="text-align: right;">Page 43</p> <p>1 Which -- why not?</p> <p>2 A Because I buy a lot of used books.</p> <p>3 Q Okay. What does that -- I don't understand the 4 correlation.</p> <p>5 A That have stamps from libraries that I myself 6 have not visited.</p> <p>7 Q Right, but did -- did you ever inquire as to 8 where Dr. Hall-Ellis got the -- the copy that 9 she's referring to?</p> <p>10 A So where does she say she got it from, because I 11 could find where I wrote about that, in her 12 report?</p> <p>13 Q I -- I can't give you a specific reference, but 14 the stamp here is the Library of Congress.</p> <p>15 Do you recognize -- let me ask you this. 16 Let me withdraw the last question.</p> <p>17 A Sure.</p> <p>18 Q Do you recognize this as a Library of Congress 19 stamp?</p> <p>20 A As close as I can read it.</p> <p>21 Q Yeah. So does this have any impact on your 22 analysis of whether the book was published?</p> <p>23 A Okay, my analysis is about -- not about -- is 24 about the accessibility of the book, so let me -- 25 hang on. I know it's here somewhere.</p>	<p style="text-align: right;">Page 45</p> <p>1 Q Did you ever ask for it?</p> <p>2 A No.</p> <p>3 Q We have three copies. I think we produced them. 4 Okay. So you don't know that this -- whether or 5 not this is the verso page?</p> <p>6 A I can't say. That -- I mean, if you want me to 7 be totally certain, I can't be totally certain. 8 Q Hold on. Maybe you mentioned it. 9 I'll come back at a break. I thought you -- 10 do you recall mentioning the verso page in your 11 report? I thought I had seen it.</p> <p>12 A I believe I mentioned it in connection with the 13 Cataloging in Publication data being present 14 indicating that it was MARC -- a MARC record 15 would have been opened before the -- the book 16 existed.</p> <p>17 Q Okay. And just --</p> <p>18 MR. OFFOR: Counsel, just -- it's on page 7 19 of her report, I think.</p> <p>20 MR. BETTINGER: Okay. Thank you, sir. I 21 appreciate it.</p> <p>22 THE WITNESS: Oh, yes. I was on the next 23 page, sorry.</p> <p>24 MR. OFFOR: Where it says first, I think 25 that's maybe a screenshot of what you're talking</p>

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1	MR. OFFOR: Just for clarity, I think we're	1	Because that's when it actually received the
2	on the -- she's on the wrong page. So 282.	2	book.
3	Q 282.	3	A Then why does this say 12-03?
4	A Oh, okay.	4	Q Because that's when it sent -- it had the book
5	Q Sorry. We're on "b".	5	and it sent one to CIP to verify. I just -- I
6	A I couldn't see it, okay.	6	mean, it just makes sense to me that's what
7	Q "Subfield "b" contains a statement of the number	7	they're saying here, doesn't it?
8	of copies of the resource the Library of Congress		MR. OFFOR: Object to form.
9	has decided to retain. It is mandatory when	9	A What I am saying is that in 925 where it says
10	subfield "a" has an acquire decision," which is	10	this is their plan, I believe that this is their
11	what we have here.	11	plan, and if you notice, it says policy default,
12	A Yes. Yes.	12	and they have some big default things. They
13	Q "And is absent when subfield "a" has do not	13	acquire or undetermined. The statement is in the
14	acquire or undetermined. The statement is in the	14	standard two shelf copies, policy default,
15	form shown in the following examples."	15	eventually this is what they plan to do. I don't
16	A Right.	16	know when this -- that 925 was filled in.
17	Q You see that?	17	Q Right, but by 7 we know they have at least one
18	A I do see that.	18	copy. We know because it's a file stamped copy;
19	Q Okay. So they have decided to retain two copies,	19	right? That's what Exhibit 7 shows us.
20	two shelf copies; right?		MR. OFFOR: Object to form.
21	A Eventually. I just don't know when they would	21	A I -- I think I've already described that I see
22	have two copies.	22	that that stamp's on there.
23	Q Well, what we do know is the Library of Congress	23	Q Okay. So that would indicate the Library of
24	had a copy on November 10, 2003, from the file	24	Congress has a -- has the book November of 2003,
25	stamp; right?	25	and by December of 2003 it's actually sending a
	Page 79		Page 81
1	A Well, why don't --	1	copy of that book to CIP for verification. Isn't
2	MR. OFFOR: Object to form.	2	that a fair reading of what these documents show?
3	A -- they have two copies.	3	MR. OFFOR: Object to form.
4	Q Maybe they do. This is just one of them.	4	A I read 955 as being a record of processing, and I
5	A I don't think you can have it both ways. I think	5	don't know when it was actually shelved --
6	this is a plan to acquire two copies, one of	6	Q Right, we're not talking --
7	which will be this one, maybe, some day.	7	A -- from this.
8	Q Well, we have one we know of at this November 10,	8	Q Yeah, but we're not talking shelving. We're
9	2003 -- is it 18 -- November of 2003, we know is	9	talking about having the book.
10	a Library of Congress stamp, it has -- that	10	A I'm reading the same thing you're reading.
11	indicates it has a copy; correct?	11	Q Yeah. Now, shelving could be different; right?
12	A A copy, yes.	12	You got to put it on a shelf.
13	Q Yes. And then we know that in -- on December 3,	13	A Uh-huh.
14	2003, a copy was received and was sent to CIP for	14	Q Right. But what we're trying to determine is
15	verification; right?	15	public accessibility, whether someone can find
16	MR. OFFOR: Object to form.	16	the book. And isn't it a fair reading of these
17	A All that does is raise questions in my head.	17	documents that by November the Library of
18	Q So that doesn't indicate to you as an expert,	18	Congress had the book, and in December it was
19	just being independent looking at this --	19	actually sending it around within the -- after
20	A Yes.	20	having gone through the 955 process, was sending
21	Q -- that doesn't indicate to you that the Library	21	it around so that the book was there, it was
22	of Congress had a copy by November of 2003, it	22	available?
23	had acquired two shelf copies and at least one of	23	MR. OFFOR: Object to form.
24	those copies had been provided on December 3?	24	Q Isn't that a fair reading?
25	A In that case how can it have a stamp of November?	25	A So if we go back to my report. Okay, so on

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1 Q	Okay. And if you look at -- let's -- let's use your Exhibit 14 because it's yours. It makes it -- you say -- do you see in line 40 there it's UMI UMI?	1 Q	Or dissertations I guess is a better word.
2 A	I see that.	2 A	If you look at page 245, I'm -- not -- I'm sorry, not 245; 500, the line for 500.
3 Q	Okay. And do you recall that from our previous discussion, 40 was the publisher?	3 Q	Yes.
4 A	Yes.	5 A	One of their core businesses is the -- is the production of this thing called Dissertation Abstracts International.
5 Q	Okay. And do you know --	6 Q	Yes.
6 A	No, no. Okay. Wasn't 40 the cataloging entry, cataloger?	7 A	It's an indexing service for abstracts.
7 Q	It's a long day and sometimes I might get -- I want to make sure I'm correct.	8 Q	And if you go on that Dissertation Abstracts International and click on an abstract, you can get then sent to buy the underlying thesis; right?
8 A	Yeah, yeah, yeah, sure. Fair enough.	9 A	Sometimes.
9 Q	Let me get that number for you, see if I can help you.	10 Q	Right. That's their business model.
10 A	Record source.	11 A	Yes.
11 Q	Yeah. So it's on page 170 --	12 Q	And here if you look at line 300 on Exhibit 14, the line 300 --
12 A	Yes.	13 A	Uh-huh.
13 Q	-- of your --	14 Q	-- that's -- that's telling us the number of pages in the thesis; correct?
14 A	I see that.	15 A	I believe it's meant to indicate that. What I see, though, is that the source of the information is the Dissertation Abstracts International.
15 Q	Yeah. Mark coder, name of organizations that created the original classification record.	16 Q	
16 A	Right. You had said publisher.	17 Q	
17 Q	Oh, did I?	18 Q	
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1 A	Yeah.	1 Q	Sure, but it's telling you about the -- the abstract isn't 139 pages. It's the actual thesis; right?
2 Q	I'm sorry, you're -- well, it's the record source, 40 is the record source; correct?	2 A	No. Probably somebody filled out a form that said how many pages is the thesis and they put down 139.
3 A	Correct.	3 Q	Right. So that you could go onto the UMI website, get that abstract and then say yeah, I want to purchase a copy; right?
4 Q	And UMI is the record source?	4 A	If it's available.
5 A	Yes.	5 Q	Well, you -- do you have any evidence that it wasn't available?
6 Q	What is UMI?	6 A	I know that some are not. Some are embargoed. I would have expected to see like royalty payments.
7 A	MR. OFFOR: Object to form.	7 Q	My own dissertation sold seven copies and I got all of like \$50 for it, because they -- they pay royalties to the -- to the authors when they sell copies of it. And I thought that -- I did not see any of that information.
8 A	What is -- if I'm correct, it stands for University Microfilms International.	8 Q	Well -- okay. But so then in your mind you drew the conclusion it was not available?
9 Q	Okay. And is that an outfit that publishes dissertations?	9 A	No, I -- I cannot be certain one way or the other.
10 A	MR. OFFOR: Object to form.	10 Q	Okay.
11 Q	They provide access and indexing. They provide indexing to many dissertations and theses and access to some.	11 A	Especially I don't know what happened in 2004.
12 Q	Right. And you -- and then they -- you pay for those. If you -- if you want a copy --		
13 A	If you want a copy.		
14 Q	-- you have to pay UMI; right?		
15 A	Well, UMI would sell you a copy of some, not all.		
16 Q	So UMI -- is it your understanding UMI is in the business of -- of collecting and selling Ph.D. theses?		
17 A	MR. OFFOR: Object to form.		